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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/657,894	09/08/2000	Dennis Lee Rice	Rice-1	2805

7590 07/16/2002

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EXAMINER

TON, ANABEL

ACT UNIT	PAPER NUMBER
2875	

DATE MAILED: 07/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/657,894	RICE, DENNIS LEE	
	Examiner Anabel M Ton	Art Unit 2875	
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>			
Period for Reply			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.			
<ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 			
Status			
<p>1)<input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>27 June 2002</u>.</p> <p>2a)<input checked="" type="checkbox"/> This action is FINAL. 2b)<input type="checkbox"/> This action is non-final.</p> <p>3)<input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11, 453 O.G. 213.</p>			
Disposition of Claims			
<p>4)<input checked="" type="checkbox"/> Claim(s) <u>1-19</u> is/are pending in the application.</p> <p>4a) Of the above claim(s) _____ is/are withdrawn from consideration.</p> <p>5)<input checked="" type="checkbox"/> Claim(s) <u>14-19</u> is/are allowed.</p> <p>6)<input checked="" type="checkbox"/> Claim(s) <u>1-5,8,10,12 and 13</u> is/are rejected.</p> <p>7)<input checked="" type="checkbox"/> Claim(s) <u>6,7,9,11</u> is/are objected to.</p> <p>8)<input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.</p>			
Application Papers			
<p>9)<input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10)<input type="checkbox"/> The drawing(s) filed on _____ is/are: a)<input type="checkbox"/> accepted or b)<input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p> <p>11)<input type="checkbox"/> The proposed drawing correction filed on _____ is: a)<input type="checkbox"/> approved b)<input type="checkbox"/> disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.</p> <p>12)<input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>			
Priority under 35 U.S.C. §§ 119 and 120			
<p>13)<input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</p> <p>a)<input type="checkbox"/> All b)<input type="checkbox"/> Some * c)<input type="checkbox"/> None of:</p> <ol style="list-style-type: none"> 1.<input type="checkbox"/> Certified copies of the priority documents have been received. 2.<input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3.<input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). <p>* See the attached detailed Office action for a list of the certified copies not received.</p> <p>14)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).</p> <p>a)<input type="checkbox"/> The translation of the foreign language provisional application has been received.</p> <p>15)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</p>			
Attachment(s)			
<p>1)<input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.</p>		<p>4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.</p> <p>5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6)<input type="checkbox"/> Other: _____.</p>	

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1-5, 8, 10, 12 and 13 rejected under 35 U.S.C. 103(a) as being unpatentable over Hamilton et al (6,315,435).

2. Hamilton discloses a housing including a first end; a window in the first end of said housing (lens of 2); a lamp disposed within said housing so as to emit light through said window; a shaft (cut off in figure 2); and, a positioning assembly secured to said housing (4,6,8,12), said positioning assembly including: a first motor operable to rotate said housing in a first plane with respect to said shaft (6), and a second motor operable to pivot said housing in a second plane with respect to said shaft (10); first and second planes are different; the first and second planes are substantially perpendicular to each other; an elongated neck, wherein said shaft passes through said neck into said housing (2a); a first gear secured with respect to said shaft, and a second gear being rotatable by said first motor, whereby operation of said first motor causes said first and second gears to engage and rotate said assembly about said shaft in said first plane; a controller electrically coupled to said first and second motors for selectively operating said first and second motors to orient said window so as to emit light in a plurality of

directions in said first and second planes, the housing is substantially cylindrical. With regards to the positioning assembly being located "within" the housing, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have placed the positioning assembly within a specified housing, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70.

Allowable Subject Matter

3. Claims 6,7,9 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Claims 14-19 are allowed.

5. The following is a statement of reasons for the indication of allowable subject matter: The prior art cited does not recite the following:

- The positioning assembly further comprises a vertical adjustment assembly including first and second perpendicular tubular members and a planar portion, said first motor is secured to said planar portion, and said shaft passes through said first tubular portion
- The positioning assembly further comprises a horizontal adjustment member including a recess for at least partially receiving said second tubular portion and said second motor;
- A washer including a plurality of tabs positioned so as to limit said rotation of said assembly by said first motor;

- The rotation is limited to approximately 380 degrees;

A first section gear being fixed with respect to said positioning assembly and a third gear being rotatable by said second motor, whereby operation of said second motor causes said first section gear and said third gear to engage thereby causing said third gear to travel along said first section gear and pivot said housing in said second plane.

Response to Arguments

6. Applicant's arguments filed 06/27/02 have been fully considered but they are not persuasive. Applicant argues that the positioning assembly of Hamilton is not secured within the housing. With regards to the location of Hamilton's positioning assembly, applicant has not disclosed that locating the positioning assembly within the housing solves any stated problem or is for any particular purpose, and it appears that the invention would perform equally well with the positioning assembly of Hamilton (an object of the applicant's invention as stated in the disclosure is to provide a simplified search light which can be mounted either horizontally or vertically, yet provide mobility in both the horizontal and vertical directions.) Applicant does not state in the specification that locating the positioning assembly within the housing is an object of the invention nor a necessary function of the invention. Hamilton clearly discloses in 2a and 2b that the lighting system is mobile in both horizontal and vertical directions.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

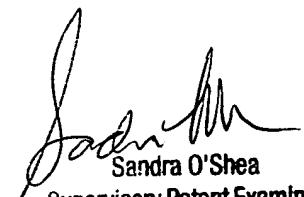
Art Unit: 2875

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M Ton whose telephone number is (703) 305-1084. The examiner can normally be reached on 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (703) 305-4939. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3431 for regular communications and (703) 308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800

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Anabel M Ton
Examiner
Art Unit 2875

AMT
July 10, 2002